

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

ENCOMPASS INSURANCE COMPANY OF  
MASSACHUSETTS,

Plaintiff,

vs.

JOSEPH D. GIAMPA, FREDERICK T.  
GIAMPA, ADVANCED SPINE CENTERS,  
INC., d/b/a FIRST SPINE REHAB, FUTURE  
MANAGEMENT CORPORATION, FUTURE  
MANAGEMENT BUSINESS TRUST,  
EDWARD KENNEDY, BRIAN J.  
CULLINEY, D.C. and JENNIFER  
McCONNELL, D.C.

Defendants.

Civil Action No. 1:05-cv-11693-RCL

**EMERGENCY MOTION FOR CONFERENCE PURSUANT TO FED. R. CIV. P. 16**

NOW COMES the plaintiff, Encompass Insurance Company of Massachusetts (hereinafter "Encompass"), and pursuant to Fed. R. Civ. P. 16 and Local Rule 16.3 respectfully requests that this Honorable Court convene an EMERGENCY Case Management Conference at the Court's earliest convenience.

Respectfully submitted,  
*Encompass Insurance Company,*  
By its attorneys,

/s/ David O. Brink

David O. Brink, BBO#547370  
Richard D. King, Jr., BBO#638142  
Michael W. Whitcher, BBO#663451  
SMITH & BRINK, P.C.  
350 Granite Street, Ste. 2303  
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(617) 770-2214

Dated: December 11, 2007

**Certificate of Service**

I, David O. Brink, hereby certify that on this 11th day of December, 2007, this document was filed through the CM/ECF and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

\_\_\_\_\_/s/ David O. Brink\_\_\_\_\_



**SMITH & BRINK, P.C.**

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Please respond to Braintree office

*Admitted in Massachusetts,  
And the U.S. District Courts for  
Massachusetts and Connecticut*

December 11, 2007

Hon. Reginald C. Lindsay  
United States District Court for the District of Massachusetts  
John Joseph Moakley United States Courthouse  
1 Courthouse Way – Suite 2300  
Boston, MA 02210

Re: Encompass Insurance Company of Massachusetts v. Joseph D. Giampa, et al  
U.S.D.C. for the District of Massachusetts, C.A. No. 05-11693 RCL  
**Our File No.: 27675.ENC/1075-0521**

Dear Judge Lindsay,

I am counsel for the plaintiff, Encompass Insurance Company. Enclosed please find plaintiff's Emergency Motion for Conference Pursuant to Fed. R. Civ. P. 16. Encompass' respectfully requests this Court grant the plaintiffs an immediate hearing on this motion. Plaintiff's counsel anticipates that the hearing of this matter will take between twenty to forty minutes.

Prior to filing this motion, I contacted the attorney's representing the Defendants in this matter; Matthew Conroy (718-813-9131, email: [mconroy@conroylaw.us](mailto:mconroy@conroylaw.us)) and Thomas Ciampa (617-839-8772, email: [tciampa@ciampalaw.com](mailto:tciampa@ciampalaw.com)). I also called the attorney representing Encompass in connection with the counterclaim, Jonathan Hausner (617-946-4929, email: [jhausner@seyfarth.com](mailto:jhausner@seyfarth.com)). All counsel have indicated that they are available as follows:

December 12, 2007 4:00 p.m.  
December 13, 2007 all day

As Attorney Conroy's office is in New York, Encompass does not object to his participating in this conference via telephone.

Encompass acknowledges that it is making an extraordinary request upon the Court. Unfortunately, unique and urgent circumstances have compelled my client to take this action at this time.

Very truly yours,

David O. Brink

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